

## Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 EB-07 L-03 STR-04 OPIC-03 /028 W  
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FM AMEMBASSY BUENOS AIRES  
TO SECSTATE WASHDC 0660

LIMITED OFFICIAL USE BUENOS AIRES 3879

E.O. 11652: N/A  
TAGS: EFIN, AR  
SUBJECT: GOA INSURANCE REGULATIONS

REF: (A) BUENOS AIRES 3569, (B) BUENOS AIRES 3607

1. CARLOS PARADISO, LOCAL AFIA REPRESENTATIVE AND  
PRESIDENT OF THE FOREIGN INSURANCE ASSOCIATION IN  
ARGENTINA, CALLED ON EMBOFF TO GIVE HIS VIEWS ON  
PENDING NEW GOA INSURANCE REGULATIONS. SOME OF THE  
MAIN POINTS HE MADE ARE:

A. THE DEFINITION OF A NATIONAL COMPANY (AT LEAST  
70 PERCENT OWNED BY ARGENTINE NATIONALS OR RESIDENTS)  
IS MORE RESTRICTIVE THAN THE DEFINITION INCLUDED IN THE  
FOREIGN INVESTMENT LAW. MOREOVER, THE NEW INSURANCE  
REGULATIONS WILL GREATLY RESTRICT THE "RESIDENT" LOOP-  
HOLE CURRENTLY USED BY FOREIGN INSURANCE COMPANIES TO  
MAINTAIN CONTROL OF "NATIONAL" INSURANCE COMPANIES. IN  
THE FIRST PLACE, THE REGULATIONS STIPULATE THAT A  
COMPANY WILL BE CONSIDERED FOREIGN IF FOREIGNERS CONTROL,  
EITHER DIRECTLY OR INDIRECTLY, THE NECESSARY VOTES TO  
PREVAIL AT STOCKHOLDERS MEETINGS OR ON THE BOARD  
OF DIRECTORS. SECONDLY, A PERSON WILL BE CONSIDERED  
A RESIDENT ONLY IF HE HAS LIVED IN ARGENTINA  
CONTINUOUSLY FOR AT LEAST THREE YEARS.

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B. THE NEW REGULATIONS MAINTAIN AN OLD PROVISION  
FROM LAW 12988 PROMULGATED IN 1948. THIS PROVISION  
STIPULATES THAT ALL NATIONAL OR LOCAL GOVERNMENT  
ENTITIES, AS WELL AS PERSONS OR COMPANIES RECEIVING  
BENEFITS OR TAX BREAKS FROM A GOVERNMENT ENTITY,  
MUST INSURE ONLY WITH NATIONAL INSURANCE COMPANIES.

ACCORDING TO PARADISO, SINCE THERE IS NO COMPANY IN ARGENTINA WHICH DOES NOT RECEIVE SOME KIND OF GOVERNMENT CONCESSION OR BENEFIT, FOREIGN INSURANCE COMPANIES ARE LEGALLY EXCLUDED FROM DOING BUSINESS WITH THE PRIVATE SECTOR. IN THE PAST, THE GOVERNMENT HAS ENFORCED THIS PROVISION LAXLY AND AS A RESULT FOREIGN INSURANCE COMPANIES HAVE BEEN ABLE TO SELL INSURANCE TO MANY FOREIGN SUBSIDIARIES IN ARGENTINA.

C. UNDER THE CURRENT REGULATIONS, FOREIGN INSURANCE COMPANIES ESTABLISHED IN ARGENTINA CAN REINSURE UP TO 40 PERCENT OF THEIR CONTRACTS WITH REINSURANCE COMPANIES ABROAD. THE NEW REGULATIONS REQUIRE THAT ALL REINSURANCE BE PLACED LOCALLY WITH NATIONAL COMPANIES -- A CHANGE WHICH WILL AFFECT ADVERSELY THE OPERATIONS OF AFIA AND OTHER FOREIGN COMPANIES (FOR EMBASSY COMMENT, SEE PARA 9, REF A).

2. COMMENT: IT IS APPARENT THAT THE U.S. AND OTHER FOREIGN INSURANCE COMPANIES OPERATING IN ARGENTINA ARE PRIMARILY CONCERNED THAT THE GOA WILL CLOSE EXISTING LOOPHOLES AND START ENFORCING INSURANCE REGULATIONS. LEGALLY SPEAKING, THE NEW REGULATIONS ARE NOT MUCH MORE DISCRIMINATORY THAN THE OLD. WE DO NOT THINK THE U.S. GOVERNMENT CAN PROPERLY MAKE REPRESENTATIONS TO MAINTAIN LOOPHOLES SUBVERTING THE INTENT OF THE LAW, NO MATTER HOW BAD THE LAW IS. WE HAVE THEREFORE COME TO THE CONCLUSION THAT A DEMARCHE TO THE GOA ON THIS SUBJECT WOULD HAVE TO STRESS LONG-LIMITED OFFICIAL USE

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STANDING LEGAL DISCRIMINATION AGAINST FOREIGN INSURANCE COMPANIES RATHER THAN THE IMPACT OF THE NEW PROPOSED REGULATIONS -- AN APPROACH WHICH MAY NOT CARRY MUCH WEIGHT WITH GOA.

3. PLEASE ADVISE WHETHER DEPARTMENT STILL WANTS EMBASSY TO MAKE A DEMARCHE TO THE GOA ON THIS MATTER. CHAPLIN

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## Message Attributes

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